Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I submit sir, that of course I was not able to get the previous consent of my learned friend, the Hon'ble Leader of the Prajamandal Party. He was not available for consultation whether he will be willing to serve on the Committee. Presuming that he will give his permission I suggested that his name also may be included. There is also another thing. The number will become 9. If it is number 8 there may be a time with number 9 a clear majority might also be possible. Therefore I would suggest his name also.

Mr. Deputy President: The question is that the Cochin Agriculturists Relief Act (Amendment) Bill be recommitted under S. O. 37.

Mr. M. Sivarama Menon *(Advocate-General):* With respect to clauses 4 and 5.

Mr. P. Kumaran Ezhuthassan *(Vadakkanckeri):* That is what I move.

Mr. Deputy President: The motion that the Bill be referred to a Select Committee under S. O. 37 in respect of clauses 4 and 5 was put and carried.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I submit sir, that the time may be fixed, the report may be made available within a month so that it may be considered in the Makaram Session. I think I have got the right to move that the period may be put within one month.

Mr. Deputy President: Has the Advocate-General anything to say to that?

Mr. M. Sivarama Menon *(Advocate-General):* It is rather too short. But of course I leave it to the House.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* What I suggest is that the Select Committee report may be made available for consideration for being presented to the House by me clause after clause in the next meeting normally it comes in Makaram. I may also say that the Select Committee report must be made available to the Members 12 days prior. If one is inclined to fight against the Bill he could raise that objection *i.e.*, the non-receipt of the report before 12 days. Hence my request that the Select Committee report may be made available with in one month. We will agree to make some sacrifice to have this in one month.

Motion put and carried

2. The Christian Succession Act (Amendment) Bill

Mr. C. J. Cherayath *(Nellayi):* Mr. President Sir, The Christian Succession Act Amendment Bill which stands now in my name was previously introduced before this House in the last Council by Mr. C. V. Iyyu. It had been referred to a Select Committee. Before the Committee can submit its report the term of that old superanuated Council was terminated.

Rao Sahib K. Ayyappan *(Ezhuvas-Kanayannur):* Nay, super experienced Council.

Mr. C. J. Cherayath *(Nellayi):* And hence I am now only seeking to give a fresh chance for this Amendment Bill of Mr. Iyyu to see whether it can be passed into law and incorporated into the Christian Succession Act. And I move for a special Order under S. O. 4 for this Christian Succession Act (Amendment) Bill.

Mr. K. T. Achyuthan *(Ezhuvas-Mukundapuram):* I second it.

Mr. Paramel Ipe Ipe *(Kunnamkulam):* Mr. Deputy President Sir, I oppose the motion. I oppose the motion with a certain amount of reluctance, fearing that I would be misunderstood that it is being opposed by me because it is a Bill originally introduced by my rival in the election. But on principle I have to oppose it; there is no exigency for enacting such a legislation. As the time before us is very limited I do not mean to refer to the Bill clause by clause. Firstly regarding objects and reasons what is stated there is that a christian who has unfettered powers to will away his property, is not making adequate provision for the maintenance of the widow in his will. Whether such instances are so very common among the Chritian community is the question now. There may be some stray cases one or two, here and there. Rare or very few such instances will not be a ground to make such a piece of legislation. The second point is whether this full and free right to will away the whole property can be encroached upon the simple reason that there may be one or two instances of wills not adequately providing for the widows as apprehended by the Bill. That Christians, as a Class, have this right to will away the whole property or to transfer it completely even in the name of a stranger. This right is enjoyed by them from time immemorial. The Tharavad property as understood in the Hindu Law or the Marumakkathayam Law is something foreign to the Christian Community. The same is the

LIBRARY ARCHIVES Kerala Legislative Assembly

case with the Ezhuva community also. The Bill or rather the enactment, namely the Makkathayam Thiyya Act, passed by this House recently there is no provision like the one that has been contemplated for by this Bill. Even in the Thiyya Act of other countries, I am afraid a provision like this will not find a place. Then again even among the Marumakkathayees of Cochin State we find that regarding one's aquisitions one has complete power to dispose of his property as he likes. If that is the case there is stronger reason to think that the right to will away the property among the Christian community, should not be so lightly interferred with unless it is strongly made that this is very commonly misused by the members of the community.

Mr. Deputy President: Are you on the provisions of the Bill or on the question of the Standing Order 4 (3) for a special order?

Mr. Parmel Ipe Ipe *(Kunnamkulam):* I oppose the motion and attempt to make out by a general reference to the provisions of the Bill that it need not be continued.

Mr. Deputy President: The motion is for a special order under S. O. 4 (3) for the continuance of the Bill.

Mr. Paramel Ipe Ipe *(Kunnamkulam):* It is not necessary to continue the Bill. I am making out that it is not necessary at all to continue it.

Another point that I wish to bring home to the members of this house is this. Suppose this Bill is enacted and placed on the the Statute Book of Cochin what is the effect ? Is it not possible for a Christian even then, to defeat the principles of this Bill by making transfers enter-vivos, if he purposely wants that his wife should not be provided for from his assets. Then another aspect is that a man if he dies intestate, his widow gets a share under the Christian Succession Act. A man finds a life partner in the person of that lady who is his wife and purposely executes a will, to disinherit her the result is so patent and it may look very hard to the world at large. The reason may be something very weighty and cogent but a third person may not be able to understand. There might be stranged relationship between the parties. There might be wanton neglect and disregard on her part of the person and property of the husband. In such cases it will be too hard to impose a restriction upon a person to execute a testament or will to leave a certain portion to the widow even though he wants to disinherit her. Another aspect is by enacting this piece of legislation it gives rice to or rather it promotes legislation. Suppose a man executes a will in 1115 or 1114 and in that he sets apart one item of property as the share of the widow. Now the share that has been set apart must be a share the income there of is not less than that such property as she would have inherited had he died intestate. When he dies, say in 1120 the income of the property may vary. Naturally the share alloted to her is not the correct one and they will have to be declared invalid. Thus every will will be a fertile source for litigation and suits commissions and receivers will be the consequence of every will. In the light of the facts stated above this will cause multiplicity of litigation and such legislation is unnecessary and ruinous. Then again distinction is sought to be of property left behind by the father and mother. The share is different, it is that of the mothers and quite different if it is that of the father. Such a distinction is not maintained in many systems of Law.

Mr. V. R. Krishnan Ezhuthassan *(Oorakam):* The select committee can change all that.

Mr. Paramel Ipe Ipe *(Kunnamkulam):* If the view of the House is in my favour then there is no use sending it to a select committee and spending money for the same. It is unnecessary. An invidious distinction is sought to be made by making a distinction between fathers' property and mother's property. That also is unnecessary. And that again will bring in multiplicity of litigation.

Lastly, I wish to say before this House a word or two regarding Sthree Dhanam. Now according to the present Act that is on the Statute Book if the Sthree Dhanam is paid or promised to be paid the daughter will have no share in the father's or mother's property. If it is mother's property under this Bill even if Sthree Dhanam is paid she is to get a share. In fixing the Sthree Dhanam financial position of the family is one of the main reckoning factors. When we consider a family we do not make a distinction whether the property is that of the father's or that of the mother's. Generally what we see is what is the total assets of the family. Now inconsistent with that, making this distinction is not necessary and it will not be conducive to the interest of the community at large. Secondly in the matter of paying Sthree Dhanam except in very rich families, ordinary or the middle class or the poor class are giving an amount as Sthree Dhanam more than what will be the daughters due share. In these circumstances even on the merits of the Bill it is not necessary that this Bill be continued or referred to a Select Committee.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Deputy President: The motion before the House is for a special order under S. O. 4 (3) for the continuance of the Bill.

Mr. Paramel Ipe Ipe *(Kunnamkulam):* I mean it need not be continued.

മിസ്റ്റർ എം. ഒ. തോമക്കുട്ടി: മിസ്റ്റർ പ്രസിഡണ്ട്, സർ, ഞാൻ ഈ ക്രസ്ത്യൻ സക്സെസൻ ആക്ട് അമൻറ്മെണ്ട് ബില്ലിനെ ശക്തിയായി എതിക്കുന്നു. ഇപ്പോഴത്തെ നിലവിലിരിക്കുന്ന നിയമത്തെക്കുറിച്ച് നോക്കിയാൽ വ്യവഹാരത്തിനൊന്നും വഴിയില്ലാതെ സൌഹാർദ്ദത്തോടുകൂടി ക്രസ്ത്യൻ സമുദായം ജീവിച്ചു വരുന്നതുകൊണ്ടാണെന്ന് പറയാം. ഒരു കുടുംബത്തിലെ ഒരമ്മക്ക് അവകാശം കൊടുക്കുകയില്ലെന്നുള്ള തർക്കം കൊണ്ടുവന്ന ഈ ബില്ലിനെ ഭേദഗതി ചെയ്യേണ്ട ആവശ്യമില്ല. മക്കളുണ്ടെങ്കിൽ അമ്മയെനോക്കാതിരിക്കുകയില്ല.

മിസ്റ്റർ കെ. എസ്സ്. പണിക്കർ: മക്കളില്ലെങ്കിലൊ?

മിസ്റ്റർ എം. ഒ. തോമക്കുട്ടി: മക്കളില്ലെങ്കിൽ സാധാരണ പുരുഷന്മാരുടെ ഇഷ്ടമനുസരിച്ച് ജീവിച്ച ഒരു സ്ത്രീയാണെങ്കിൽ ആ സ്ത്രീക്ക് എന്തെങ്കിലും കൊടുക്കാതിരിക്കയില്ല. അതുകൊണ്ട് ഈ ഭേദഗതിമൂലം ക്രസ്ത്യൻ സമുദായത്തിൽ, തമ്മിൽ വഴക്കുണ്ടാക്കത്തക്ക ഒരു പരിതസ്ഥിതി ഉണ്ടാക്കേണ്ടതില്ല. ഇപ്പോഴത്തെ ഒരു സ്ത്രീക്ക് ഒരു ഒണിന്റെ മൂന്നിലൊന്ന് കിട്ടിവരുന്നുണ്ട്. ഇതു മതി. അതുകൊണ്ട് ഈ നിയമം തല്ക്കാലം മാറണമെന്നില്ല. അതുകൊണ്ട് ഇതിനെ ഞാൻ എതിക്കുന്നു.

മിസിസ്സ് ടി. ഫ്രാൻസിസ്സ്: സർ, ഞാൻ ഈ അമെൻറ്മെൻറ് ബില്ലിനെ അനുകൂലിക്കുന്നു. ഒപ്പോസർ പറഞ്ഞമാതിരിയുള്ള സ്വല്പം സംഗതികൾ മാത്രമല്ല ക്രസ്ത്യൻ സമുദായത്തിൽ സംഭവിക്കുന്നതെന്ന് എനിക്ക് മനസ്സിലാക്കാൻ കഴിഞ്ഞിട്ടുണ്ട്. ഭർത്താവ് യാതൊന്നും ആ സ്ത്രീക്ക് നീക്കിവെയ്ക്കാതെ മരിച്ചു പോയാൽ ആ സ്ത്രീയുടെ സ്ഥിതി പിന്നെ എന്താണ്? ആ സ്ത്രീ മരുമക്കളുടേയും മക്കളുടേയും കീഴിൽ കഷ്ടപ്പെട്ട കാലം കഴിക്കേണ്ടിവരും. ഇങ്ങിനെ ഒന്നുരണ്ടല്ല, പലസംഗതികളും ഞാൻ കണ്ടറിഞ്ഞിട്ടുണ്ട്. ഒരു സ്ത്രീ ഒരു പുരുഷന്റെ ഭോഗ്യയായി വളരെക്കാലം പരിചരിച്ചിട്ട് അവസാനം എന്തെങ്കിലും കിട്ടിയില്ലെങ്കിൽ വളരെ കഷ്ടമാണ്. അതുകൊണ്ട് എന്തെങ്കിലും ഒരു തുക കിട്ടുവാൻ വ്യവസ്ഥ ചെയ്യുന്നതിനാവശ്യമായ ഈ ഭേദഗതി ബില്ലിനെ എല്ലാവരും അനുകൂലിച്ച് പാസ്സാക്കണമെന്ന അഭ്യർത്ഥനയോടുകൂടി ഞാൻ അവസാനിപ്പിച്ചുകൊള്ളുന്നു.

Mr. C. J. Cherayath *(Nellai):* I never expected that there will be such an opposition for an innocent legislation like this However I will just try to answer the Hon'ble Member for Kunnamkulam regarding his objections first. He was telling that there are only very few cases where wives are not provided for in the testaments. If there are only very few cases what is the objection that this amendment also be incorporated in the Christian Succession Act? This amendment will serve as a reminder on the *paterfamilias* to provide decently for his life partner in his testament. My hon'ble friend was telling this house that ordinarily every husband will provide for his wife. I fully agree with my friend. But the amendament is intended only for extraordinary husbands, who conveniently forget their wives at the time of preparing their testaments. The next objection that my hon'ble friend was speaking of is that the sacrosanct of the testament should not be encroached upon. I do not think that the rights of a mother is less sacrosanct than the testament of a deceased father. Coming to the 4th even if the widow is provided for like this the same may be transferred *EN VIVOS.* So many things can be done behind the doors. The legislature cannot always see into such happenings. The Hon'ble Member was also dragging certain imaginery cases. The purpose of the amendment is innocent and simple. It is only to help the unprovided for widows. The select committee may make a disquisite shidy of the amendment and effect all useful changes. Then regarding the fear of the multiplicity of litigation: I belive that the sacred duty of a son to provide for his mother should superseed such meaningless fear. There are litigations without any cause of action. Somebody may say I have taken 500 rupees from him. He may file a suit against me. Who can withhold such litigations. And ordinarily the multiplicity of litigation will only benefit you—lawyer members.

Mr. Paramel Ipe Ipe *(Kunnamkulam):* I am not in any way benefitted.

Mr. C. J. Cherayath *(Nellai):* I do not mean you particularly. I mean lawyers as a class. I do not mean that there will not be any sort of litigation. If you are fair then so much less the litigation. We want to avoid litigation The amendment is intended for that. Now as I have said something by way of answering the objections, I will now try to explain the amendment a little in view of the objections. I never expected such opposition. No son would like to see his

LIBRARY ARCHIVES Kerala Legislative Assembly

mother wandering about in the streets. The amendment is only to avoid such a situation. There is no conspiracy against any party. Now what is the amendment ? I will explain.

Referring to the amendment, I wish to say at the outset that it is a useful and helpful measure. This is to help mothers. The amendment cannot be construed to be at variance with the fundamenal or the spirit of the X'ian Succession Act. On the other hand it aims at influencing the *Pater familias* of the Christian family not to forget his life partner if he chooses to leave a will or testament. If he passes away intestate, his wife's interest is safeguarded by Christian Sucession Act. But in most cases the *pater familias* leaves a testament. The father generally imagines that his wife shall command the same respect, attention and devotion from their children as he has seen in his life time and leaves her in their protection sometimes without providing her any thing and in some cases without amply providing her. The theory or the ideal that the sons and daughters should allow all tend their mother is certainly sound. It is also true that in the life time of the father, the children sometimes do show greater love and attachment to the mother than even to the father. As children they are indeed very good and the mother never suspects their love and affection towards her.

But unfortunately after the *pater familias* departs from this world, partitioning all his wealth to his sons and daughters and leaving his life partner amidst them without any share in the property she (the mother) often sinks too low in the estimation of the daughters-in-law and is sometimes treated as a burden. I know widows unprovided for having had to come down to the level of maid-servants in the very house where before the death of her husband, she was all-in-all—the mistress, the queen. In some cases the treatment meted out to her turns to be so intolerable that she is compelled to leave the house which perhaps her husband and herself caused to build some years ago. Her husband having departed—her sons growing hen-pecked—the daughters-in-law taking cudjets against her, she prefers to die than to live amidst such misery. In some cases where her own brothers are well to do people, she seeks their protection. If they are good enough she may be saved.

Various causes are at work to bring about this unhappy result. The children who may be good, loving and dutiful towards their parents, as they grow into young men and get married are often seen so much attached to their wives and children that they begin to disregard their mother. The wife of the son is only a daughter-in-law. This daughter-in-law hailing as she does from an entirely different house unless she is of an exceptionally good charactor is not seen moving in peace with her mother-in-law.

Material considerations do weigh heavier in most men than love considerations. This being the human psychology, the widow can retain her position if she has something to fall back upon. If there is a share apportioned to her, the sons and their wives will be so good and kind to the mother. They may even compete with each other in pleasing the mother and the good old woman can certainly live in comfort and die in peace. We have been all dutiful and loving sons and none of us can possibly think of worrying or allowing our mothers to live in misery. Hence this amendment which seeks to provide a widow when she is left in the lurch by the will or testament.

There may be undutiful sons (none among us I am sure) who might hold that the will or the testament of the Christian *pater familias* is sacrosanct and that it shall not be questioned or invalidated under any circumstance. They argue that if the husband has not provided for his wife, it must be due to some serious defect in her and that therefore it is unjust to help such a woman. I beg to differ from this strange view and wish to ask only one question—whatever may be the defect in the character of the widow, could her sons possibly disown their mother ? According to me the person of the mother is much more sacrosanct than the testament of the father. Even granting that the father deliberately kept her unprovided, I ask whether the sons and daughters are entitled to disregard their mother. The relations or the link between the father and the mother are quite different from that of the mother and the children. No child fondled, caressed and brought up by the mother will question her rights.

I may also point out that it is not because of any will will malice or wilful neglect on the part of the father that he overlooks the interests or rights of his wife. As a matter of fact it is the over confidence of the father in his children that the interests of the mother are fully secured in them that influences him, to think that there is no necessity to particularly apportion her rights. He cannot imagine a situation where his children will disregard their mother.

The purpose of the amendment is to help a widow when for some reason or other she is neglected by her children. This provision is as modest as the mother herself.

LIBRARY ARCHIVES Kerala Legislative Assembly

It is not at all going to disintegrate the X'ian family. It is only an influencing and safe guarding provision—a safety valve that will be used only in dire necessity. No mother will choose to strike against her own blood unless she is so much disregarded and mal-treated. It is an influencing measure for if this is passed into law, I am definitely of opinion that it shall influence the *pater-familias* to amply provide for his wife. I may go one step further. Let us take the case of a testament where a widow is not provided for even after this amendment is passed into law. According to me this provision in the X'ian Succession Act will only help to enhance the peace and security of family. That the widow has the right to property of her husband will only go to enhance the peace and security of the family. The sons will certainly care for their mother failing which she may proceed to get her share of the property. It must be incorporated into the X'ian Succession Act just to enable the widow to live in peace.

Those who take upon their head to oppose this innocent and useful measure can be only personn who had not the good fortune to taste the caresses and affection of a mother.

Motion put and carried

Mr. Paramel Iype Iype *(Kunnamkulam)*: A Poll Sir.

23 For and 3 Against

For

Mrs. T. Francis
Miss Anne Joseph
Mr. P. Narayana Menon
„ P. Kumaran Ezhuthassan
„ P. Govinda Menon
„ V. R. Krishnan Ezhuthassan
„ P. T. Jacob
„ C. S. Panicker
„ P. K. Paul
„ M. I. Paul
„ G. S. Dhara Singh
„ P. Mani
Mr. T. Kochu Vareed
Rao Shib K. Ayyappan
Mr. K. Balakrishna Menon
„ K. T. Achuthan
„ K. S. Panicker
„ C. J. Cherayath
„ K. A Velayaudhan
„ P. V. Sebastian
„ K. K. Kannan
„ K. Kochukuttan
„ P. K. Dewer
„ K. A. Raghavan

Against

Mr. Paramel Iypep Iypye
„ Jos K. Verghese
Mr. M. O. Thomakutty

Motion was carried

Mr. C. J. Chirayath *(Nellai)*: Sir I move that the Bill be referred to a Select Committee consisting of the Advocate-General, Mrs. Francis, P. K. Paul, K. S. Panicker, P. V. Sebastian, Paramel Iype Iype and Miss Anne Joseph.

Mr. Parambi Lonappen *(Minister for Rural Development)*: I propose that Messrs. Jos K. Verghese and Thomakutty be also included in the Select Committee.

Mr. C. J. Mathew *(Joint Secretary to Government)*: I propose Mr. P. V. Raphael.

Mr. P. V. Raphael *(Comptroller of Finance and Accounts)*: Sir, if I can, I beg to decline.

Mr. Deputy President: The Committee as a rule shall not exceed seven. Of course there is no limit.

Mr. C. J. Chirayath *(Nellai)*: I also beg to move that the committee will submit the report in 6 months.

Motion put and carried

3. The Cochin Newspapers Act (Repeal) Bill

Mr. V. R. Krishnan Ezhuthassan *(Oorakam)*: Sir I move for leave to introduce the Cochin Newspapers Act (Repeal) Bill.

Mr. P. Govinda Menon *(Ernakulam)*: I second it.

Motion put and carried

4. The Cochin Verumpattamdars Act (Amendment) Bill

Mr. V. R. Krishna Ezhuthassan *(Oorakam)*: Sir, I move for leave to introduce the Cochin Newspapers Act (Repeal) Bill.

Mr. P. Govinda Menon *(Ernakulam)*: I second it.

Motion put and carried

LIBRARY ARCHIVES Kerala Legislative Assembly